

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHELLE CATANZANO, Francine Catanzano,
Sam Catanzano, Sarah Trafton, on behalf of herself and
all persons similarly situated,

Plaintiffs,

DECISION AND ORDER

89-CV-1127L

v.

ROBERT DOAR, as Commissioner of the New York
State Office of Temporary and Disability Assistance and
ANTONIA NOVELLO, as Commissioner of the
New York State Department of Health, and
JOSEPH MARTINO, as the Acting Director of the
Monroe County Department of Health and Human Services and
ANDREW DONINGER, as the Director of the Monroe County
Department of Health,

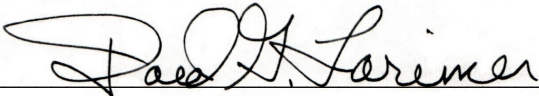
Defendants.

On September 13, 2002, the Court of Appeals for the Second Circuit issued a mandate in this case, directing this Court to dismiss two of plaintiffs' claims in this action without prejudice. Due to clerical error, that has not yet been done. To correct that oversight, and in accordance with the Court of Appeals' mandate, it is hereby

ORDERED that plaintiffs' claim concerning the constitutional and legal adequacy of court-ordered notices of fiscal assessment decisions is dismissed, without prejudice, as moot; and that plaintiffs' claim concerning the process that is due when a treatment action is taken by a

Certified Home Health Agency that conforms with the orders of the recipient's treating physician is dismissed without prejudice.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
July 27, 2005.